

BAPCPA

Statistical Requirements

Executive Summary

Section 601 of BAPCPA amended Chapter 6 of Title 28 by adding Section 159 which requires the Director of the Administrative Office to compile certain statistical information on bankruptcies filed by individual debtors with primarily consumer debts filing under chapters 7, 11, 13. CM/ECF Release 3.1 is designed primarily to transmit additional data about bankruptcy cases and adversary proceeding to the Administrative Office's Statistics Division. The new data must be collected starting October 17, 2006, and the Administrative Office must present new reports containing those new data to Congress by October 2007 and annually thereafter.

To the attorneys, the primary change will be additional specificity with respect to case upload and the items on pick-lists associated with filings of motions, applications, and notices.

The format of the statistics record has changed in CM/ECF Version 3.1 to include new case opening fields. Case opening will include information entered from the schedules of assets, liabilities, income and expenses. Of course, attorney filers will continue to use petition preparation software (updated for CM/ECF Version 3.1) and the CM/ECF case upload module to quickly open cases. Information on Version 3.1 case upload changes was shared with all bankruptcy petition software companies in mid-July. **Attorneys must upgrade their petition preparation software at the same time the court upgrades to CM/ECF Version 3.1, i.e. Monday, October 16, 2006.** Attorneys attempting to open a case using a pre-Version 3.1 of their petition preparation software will receive a CM/ECF error message that their case upload file is rejected due to using an older version.

The data required to be collected by 28 U.S.C. Section 159 includes (by chapter, except where noted):

- a) total assets and liabilities and categories thereof;
- b) monthly income (current and average) and monthly expenses;
- c) debt discharged (as defined by the statute);
- d) average time from filing to "closing of the case"
- e) for cases closed during the period, statistics regarding the number of cases with reaffirmation agreements and the number of reaffirmation agreements, pro se reaffirmation agreements, and court approvals of reaffirmation agreements;

- f) for chapter 13's, the number of orders entered determining the value of a claim and the number of cases in which an order was entered valuing property securing a claim at less than the amount of the claim;
- g) the number of 13's dismissed, dismissed for failure to make payments under the plan, the number of cases re-filed after dismissal, and the number of cases in which the plan was completed, and by the number of plan modifications required;
- h) the number of cases in which a 13 debtor filed another case during the 6-year period preceding the filing;
- i) the number of cases in which creditors were fined for misconduct and the amount of punitive damages awarded;
- j) the number of cases in which sanctions or damages were awarded.

In addition to the above-listed statistical requirements imposed on the judiciary by BAPCPA, the Judicial Conference Committee on the Administration of the Bankruptcy System imposed a requirement that additional data elements be collected to help more specifically define the judiciary's workload. CM/ECF Version 3.1 was designed to collect this necessary data. However, in order to collect the required data, attorneys and court staff must accurately enter the data into CM/ECF.

The Court has therefore removed the "Z Motion" from the dictionary of CM/ECF events. The statistical codes for the below-listed events are either new or they have been changed. These events must be entered as titled in the CM/ECF pick-list of events. They are listed in the national pick-list of dictionary events and are the events that will be used to capture statistical requirements that are to be reported by the Court to the Administrative Office of the United States Courts as required by the Judicial Conference.

To assist attorneys, these events, as well as other events related to BAPCPA, will be listed in ALL CAPS in the CM/ECF pick-list of events. Below are the events, listed in categories of events:

CM/ECF Events

Answer

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- 1. Answer Filed Crossclaim
 - 2. Answer to Involuntary Petition

Appeal

1. Notice of Appeal
2. Motion for Leave to Appeal
3. Direct Appeal to Court of Appeals
4. Request for Certification of Direct Appeal
5. Certification of Direct Appeal to Court of Appeals
6. Joint Certification (Form 24) - Certification to Court of Appeals by all Parties
7. Transmittal of Record for Preliminary Hearing
8. Transmittal of Complete Record for Appeal
9. Notice of Docketing Record on Appeal
10. Motion to Stay Pending Appeal
11. Motion to Extend Time to Appeal - Rule 8002(c)

Application

1. Application to Pay Filing Fees in Installments AND Application to Proceed
In Forma Pauperis

Appointment

1. Appointment of Creditor Committee

Motion

1. Motion for Adequate Protection AND/OR Conditional Use of Collateral
2. Motion for Relief from Stay
3. Motion for Use of Cash Collateral
4. Motion to Appoint a Trustee AND/OR Remove Debtor as Debtor in Possession
AND/OR Appoint Examiner
5. Motion to Assume Leases or Executory Contracts
6. Motion to Avoid Liens
7. Motion to Change Venue/Inter-District Transfer
8. Motion for Intra-District Transfer
9. Motion to Compel Abandonment
10. Motion to Convert Case
11. Motion to Dismiss Case for Failure to Make Plan Payments 11 USC 1112(b)(4)(M);
1112(b)(4)(N); 1208(c)(4); 1208(c)(6) 1307(c)(4); 1307(c)(6)
12. Motion to Dismiss for Abuse (Chapter 7): 11 USC 707(b)
13. Motion to Dismiss Case for Failure to File Documents Under Section 521(i)(4)
14. Motion to Dismiss Case for Other
15. Motion to Extend/Limit the Exclusivity Period

Motion (Cont'd)

- 16.Motion to Reconsider Dismissal of Case
- 17.Motion to Redeem Property of Estate
- _____ 18.Motion to Reject Lease or Executory Contract
- 19.Motion to Reopen Case
- 20.Motion to Sell Property Free and Clear of Liens
- 21.Motion for Sale of Property Under Section 363(b), Rule 3004
- 22.Motion for Authority to Obtain Credit Under Section 364(b), Rule 4001(c) or (d)
- 23.Motion for Continuation of Utility Service Under Section 366(b)
- 24.Motion Regarding Chapter 11 First Day Motions (e.g. Pay Employees, Bonus/Retention Plans, Critical Vendors, Retain Cash Management Systems & Establish Investment Guidelines)
- 25.Motion to Turnover Property - Section 521(a)(4)
- 26.Motion to Value Collateral
- 27.Motion for Order of Contempt
- 28.Motion for Removal of Professional
- 29.Motion for Removal of Trustee
- 30.Motion for Abstention Under Section 305
- 31.Motion for Sanctions for Violation of Automatic Stay: 11 USC 362(k)
- 32.Motion for Sanctions for Violation of the Discharge Injunction: 11 USC 524(a); 11 USC 105
- 33.Motion to approve Compromise Under Rule 9019
- 34.Motion for Reaffirmation Agreements (even if no objection)
- 35.Motion for Damages for Creditor Misconduct (other than violation of the stay or discharge injunction) 11 USC 524(i); 707(b)(5); Rule 9011(c)
- 36.Motion for Sanctions for Debtor's Attorney Misconduct Under FRBP 9011
- 37.Motion for Sanctions Under Title 28 Section 1927 Counsel's Liability for Excessive Costs
- 38.Motion/Application to Employ Professionals
- 39.Motion for Jury Trial

Notice

- _____ 1. Notice of Proposed Use, Sale or Lease of Property Outside of the Normal Course of Business
2. Notice of Proposed Abandonment of Property of the Estate

Objection

- _____ 1. Objection to Claim(s)
2. Objection to Confirmation of Plan
3. Objection to Debtor's Claim of Exemptions
4. Objection to Professional Fees

Plan

- _____ 1. Plan Filed (All Chapters)
- _____ 2. Amended Plan (All Chapters)
- _____ 3. Modified Plan (All Chapters - plan modified after it has already been confirmed)

Order

- _____ 1. Order on Class Action Certification
- _____ 2. Order on Application to Pay Filing Fees in Installments AND/OR Order on Application to Proceed *In Forma Pauperis*
- _____ 3. Order Confirming Plan (All Chapters)
- _____ 4. Order Approving Modification of a Confirmed Plan (All Chapters)
- _____ 5. Order Appointing Trustee (Chapter 9 and 11 only)
- _____ 6. Order on Conversion to New Chapter or Notice of Voluntary Conversion
- _____ 7. Order from Circuit Court Re: Appeal (Final)
- _____ 8. Order on Certification of Direct Appeal to Court of Appeals
- _____ 9. Order to Show Cause for Dismissal of Case

Reaffirmation Agreement

- _____ 1. Reaffirmation Agreement(s)
- _____ 2. Reaffirmation, Pro Se Agreement(s)

Rent

- _____ 1. Rent Deposit Payment Amount

Trustee Report

- _____ 1. No Asset Report
- _____ 2. Notice of Assets

As a reminder, the correct CM/ECF pick-list event must be selected and entered into CM/ECF as titled in the above list of events. The Court has removed the “Z Motion” from the CM/ECF pick-list.

Case Audits Required by
28 USC Section 586(f)

The Executive Office of the U.S. Trustee has released to the Administrative Office of the United States Courts a list of auditors who are charged with conducting audits of debtors pursuant to 28 USC Section 586(f). The two audit firms selected for Region 21 of the U. S. Trustee Program, which includes the Northern District of Georgia, are:

1. Tronconi, Segarra & Associates
6390 Main Street, Suite 200
Williamsville, NY 14221
2. Tichenor & Associates
304 Middletown Park Place, Suite C
Louisville, KY 40243

The auditors will be provided limited filing access to the Court's CM/ECF system. The first CM/ECF event is "selected for audit", which will be a text only event. This event will be filed in at least one in every 250 cases selected for audit for those cases filed on or after October 20, 2006.

The Court will proceed with case processing in the ordinary course, including issuance of a discharge and case closing, absent action on the record by the U.S. Trustee seeking a different result. The Court and the Office of the U.S. Trustee are currently coordinating appropriate procedures for processing cases selected for audit.

The Court respectfully requests that all parties adjust their procedures to comply with the statistical requirements that become effective on October 17, 2006. Court personnel are available to assist attorneys. You may contact the Court's Help Desk by dialing 404.215.1000, pressing 2 for CM/ECF assistance, and/or you may access the Court's web site at www.ganb.uscourts.gov

